

ASSIGNMENT AND FIRST AMENDMENT TO AGREEMENT

THIS ASSIGNMENT AND FIRST AMENDMENT TO AGREEMENT (“Assignment and First Amendment” or “Assignment”) is made and entered into this 13th day of July, 2021, by and between COUNTY OF FRESNO, a political subdivision of the State of California, Fresno, California (“COUNTY”), and Kertel Communications, Inc., dba Sebastian, a California corporation, whose address is 7600 N Palm Ave, STE 101, Fresno, CA 93711, (“ASSIGNOR”), and Audeamus, dba Sebastian, a California corporation, whose business address is 7600 N Palm Ave, STE 101, Fresno, CA 93711 (“ASSIGNEE”).

WITNESSETH:

WHEREAS, COUNTY and ASSIGNOR entered into Agreement number 18-653, dated November 6th, 2018 (“Agreement”), pursuant to which ASSIGNOR agreed to provide alarm system maintenance, repair, inspection, and monitoring services to COUNTY;

WHEREAS, ASSIGNOR has merged with ASSIGNEE, and ASSIGNEE is the surviving entity, and would like to assume all obligations and privileges of the Agreement;

WHEREAS, SECTION VIII – NON-ASSIGNMENT of the Agreement provides for the assignment of the Agreement with the written consent of both Parties;

WHEREAS, ASSIGNOR wishes to assign, transfer, and delegate all of its rights, benefits, responsibilities, and obligations under the Agreement to ASSIGNEE;

WHEREAS, ASSIGNEE represents that it is willing and qualified to accept the assignment, transfer, and delegation of ASSIGNOR’S rights, benefits, responsibilities, and obligations under the Agreement, and to perform faithfully and completely in ASSIGNOR’s stead thereunder; and

WHEREAS, COUNTY and ASSIGNOR also desire to amend the Agreement in order to increase the maximum compensation amount.

NOW, THEREFORE, the parties agree that the Agreement shall be, and is, transferred and assigned by ASSIGNOR to ASSIGNEE, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, COUNTY, ASSIGNOR, and ASSIGNEE agree as follows:

1. ASSIGNOR does hereby transfer and assign all of its rights and interest in, and delegates all of ASSIGNOR’S obligations and responsibilities under the Agreement, to ASSIGNEE.

1 2. ASSIGNEE hereby accepts from ASSIGNOR such Assignment of the Agreement, and
2 ASSIGNEE agrees, as a direct obligation to COUNTY, without qualification or reservation
3 of right, to perform each and every one of ASSIGNOR'S obligations and responsibilities
4 under the Agreement, and to adhere to all terms of the Agreement as though ASSIGNEE
5 were the signatory party of said Agreement, in lieu of ASSIGNOR. As such, ASSIGNEE
6 agrees that its liability under the Agreement shall include liability accruing as a result of
7 ASSIGNOR's, as well as ASSIGNEE's, performance, or failure to perform its obligations
8 under the Agreement.

9 3. COUNTY hereby agrees to this Assignment of the Agreement.

10 4. Each person executing this Assignment in a representative capacity hereby warrants
11 and represents to the other parties that he or she is authorized to do so, and that his or
12 her signature shall be binding on that party.

13 5. ASSIGNEE agrees to each and every term and condition of the Agreement.

14 6. Section XII – NOTICES of the Agreement shall be amended to read:

<u>COUNTY</u>	<u>CONTRACTOR</u>
Internal Services Department	Audeamus, dba Sebastian
Director of Internal Services/CIO	Ron Cato
333 W. Pontiac Way	7600 N. Palm Ave, STE 101
Clovis, CA 93612	Fresno, CA 93711

18 7. ASSIGNEE and ASSIGNOR hereby represent that all prior payments until the Effective
19 Date of this Assignment have been paid to the correct party, and that no further payments
20 are owed by COUNTY to ASSIGNOR.

21 8. A portion of Section 5 – "COMPENSATION/INVOICING" of the Agreement, located on
22 page 4, lines 8 through 18, is deleted in its entirety, and replaced with the following:

23 "In no event shall compensation paid for services performed under this Agreement
24 exceed \$100,000, for the specified alarm monitoring services, for the potential five (5) year term. It is
25 understood that all expenses incidental to CONTRACTOR'S performance of services under this
26 Agreement shall be borne by CONTRACTOR."

27 COUNTY and ASSIGNOR agree that this Assignment and First Amendment is sufficient to
28

1 amend the Agreement and, that upon execution of this Assignment and First Amendment, the
2 Agreement and this Assignment and First Amendment together shall be considered the Agreement.

3 The parties agree that this Assignment and First Amendment may be executed by electronic
4 signature as provided in this section. An "electronic signature" means any symbol or process intended
5 by an individual signing this Assignment and First Amendment to represent their signature, including
6 but not limited to (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3)
7 an electronically scanned and transmitted (for example by PDF document) of a handwritten signature.
8 Each electronic signature affixed or attached to this Assignment and First Amendment (1) is deemed
9 equivalent to a valid original handwritten signature of the person signing this Assignment and First
10 Amendment for all purposes, including but not limited to evidentiary proof in any administrative or
11 judicial proceeding, and (2) has the same force and effect as the valid original handwritten signature of
12 that person. The provisions of this section satisfy the requirements of Civil Code section 1633.5,
13 subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5,
14 beginning with section 1633.1). Each party using a digital signature represents that it has undertaken
15 and satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1)
16 through (5), and agrees that each other party may rely upon that representation. This Assignment and
17 First Amendment is not conditioned upon the parties conducting the transactions under it by electronic
18 means and either party may sign this Assignment and First Amendment with an original handwritten
19 signature.

20 The Agreement, as hereby amended, is ratified, and continued. All provisions, terms,
21 covenants, conditions, and promises contained in the Agreement and not amended herein shall
22 remain in full force and effect.

23
24
25 //

26
27
28 //

1 EXECUTED AND EFFECTIVE as of the date first above set forth.

2

3 **ASSIGNOR**

COUNTY OF FRESNO

Ron Cato

Ron Cato (Jun 16, 2021 11:06 PDT)

(Authorized Signature)

Steve Brandau
Chairman of the Board of Supervisors of
the County of Fresno

5

6

Ron Cato, VP of Operations

7

Kertel Communications, Inc., dba Sebastian
7600 N. Palm Ave, STE 101
Fresno, CA 93711

8

9

10 **ASSIGNEE**

ATTEST:

Ron Cato

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

Ron Cato (Jun 16, 2021 11:06 PDT)

(Authorized Signature)

11

12

Ron Cato, VP of Operations

13

14

Audeamus, dba Sebastian
7600 N. Palm Ave, STE 101
Fresno, CA 93711

15

16

17

18

By:

Deputy

19

FOR ACCOUNTING USE ONLY:

20

Fund: 1035

21

Subclass: 10000

22

ORG: 8970

23

Account: 7295

24

25

26

27

28